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AG Bruning: Legal Challenge of Federal Health Care Takeover Advances

LINCOLN – Nebraska Attorney General Jon Bruning and 19 other state attorneys generals and governors filed a legal brief urging the federal district court in Florida to strike down the Patient Protection and Affordable Care Act.

“This law places a crippling financial burden on Nebraska and penalizes taxpayers,” said Bruning. “This unfunded, unconstitutional mandate cannot stand.”

In October, U.S. District Judge Roger Vinson ruled that the States have the right to advance their challenges to both the federal health care law’s requirement that all Americans purchase government-approved health insurance and the federally-mandated expansion of state-funded Medicaid programs. Today’s pleading included a motion for summary judgment asking the court to rule in their favor on both counts.

The States’ legal challenge to the federal health care law explains that the Act violates the U.S. Constitution – specifically the Commerce Clause, the Ninth Amendment and the Tenth Amendment – because it forces all Americans to obtain and maintain federally-approved health insurance coverage – or pay a penalty. The federal court’s October decision ruled: “The individual mandate applies across the board. People have no choice and there is no way to avoid it. Those who fall under the individual mandate either comply with it or they are penalized. It is not based on an activity that they make the choice to undertake. Rather, it is based solely on citizenship and on being alive.”

In October, Judge Vinson also determined that the States could proceed with their challenge to the Act’s requirement that they dramatically expand their Medicaid spending – at a cost of billions of dollars to state treasuries and taxpayers. The State’s “coercion and commandeering” claim argues that the Act fundamentally changes the nature and scope of the Medicaid program by dramatically expanding Medicaid eligibility in an effort to obtain federally mandated universal health care coverage.

Nebraska’s expense for funding new and expanded Medicaid programs resulting from the federal health care law is estimated to be more than \$500 million.

Legal briefing filed with the court explains that the Act denies States any ability or flexibility to limit the fiscal impact of the federal government’s changes. As a result, the Act effectively co-opts control over the States’ own budgetary processes and legislative agendas by compelling them to assume costs they cannot afford.